

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DONALD RENKOWIC

CIVIL ACTION

PLAINTIFF,

NO, _____

04 - 30202 - MAP

Vs,

FRANKLIN COUNTY,

FRANKLIN COUNTY HOUSE OF CORRECTION AND

JAIL, SHERIFF FREDRICK MACDONALD,

SUPERINTENDENT BYRON, DEPUTY SUPERINDENTENT,

FRITZPATRICK, DEPUTY SUPERINDENTENT SHEPERD,Jr.

DEFENDANTS.

COMPLAINT

PARTIES

- 1.) THE PLAINTIFF DONALD RENKOWIC IS A RESIDENT OF
NORTHAMPTON, COUNTY HAMPSHIRE, MASSACHUSETTS AND A
CITIZEN OF THE UNITED STATES PLAINTIFFS ADDRESS; 160 ELM
STREET, GREENFIELD, MASS. 01301
- 2.) THE DEFENDANT, COUNTY OF FRANKLIN, GREENFIELD, MASS
01301
- 3.) THE DEFENDANT, FRANKLIN COUNTY HOUSE OF CORRECTION AND
JAIL IS A INSTITUTION OF GREENFIELD, COUNTY OF FRANKLIN,
MASSACHUSETTS. DEFENDANTS ADDRESS ; 160 ELM STREET ,
GREENFIELD, MASS. 01301.
- 4.) THE DEFENDANT, SHERIFF FREDERICK MACDONALD IS A RESIDENT
OF GREENFIELD, COUNTY OF FRANKLIN, MASSACHUSETTS AND A
CITIZEN OF THE UNITED STATES. DEFENDANTS ADDRESS ; 160 ELM
STREET, GREENFIELD ,MASS 01301.
- 5.) THE DEFENDANT, SUPERINDENTENT BYRON IS A RESIDENT OF
GREENFIELD ,MASS AND A UNITED STATES CITIZEN. THE
DEFENDANT ADDRESS ; 160 ELM STREET GREENFIELD , MASS 01301
- 6.) THE DEFENDANT , DEPUTY SUPERINDENTENT , FRITZPATRICK IS
A RESIDENT OF GREENFIELD,MASS, AND A UNITED STATES
CITIZEN THE DEFENDANTS ADDRESS ;160 ELM STREET
.GREENFIELD MASS. 01301.

7.) THE DEFENDANT , DEPUTY SUPERINDENTENT, SHEPERD, Jr.
IS RESIDENT OF GREENFIELD, MASS. AND A UNITED STATES
CITIZEN THE DEFENDANTS ADDRESS ;160 ELM STREET ,
GREENFIELD MASS.01301.

JURISDICTION

8.) THIS COURT HAS JURISDICTION OVER THIS MATTER PURSUANT 28
U.S.C. section 1332.

FACTS

9.) ON JUNE 11, 2004, THE PLAINTIFF DONALD RENKOWIC WAS
REMANDED TO THE FRANKLIN COUNTY HOUSE OF CORRECTION AND
JAIL FOR UNRELATED MATTERS

10.) THE DEFENDANTS FRANKLIN COUNTY HOUSE OF CORRECTION
AND JAIL, SHERIFF FREDERICK MACDONALD AND OTHERS ARE
REQUIRED BY FEDERAL AND STATE LAWS TO INSURE THE RIGHTS OF
PRISONERS ARE FOLLOWED AND THAT ALL REGULATIONS OF
MASSACHUSETTS ARE ACTED UPON TO THE FULLEST EXTENT WHEN
DEALING WITH PRISONERS RIGHTS.

11.) THE PLAINTIFF DONALD RENKOWIC HAS AND WAS DIENIED ACCESS TO THE LAW LIBRARY AFTER HE HAS REQUESTED THE USE OF SUCH LAW LIBRARY FROM JUNE 11, 2004, THROUGH JUNE 17,2004 WHILE BEING CONFINED TO HIS CELL FOR ORIENTATION PROCESS THAT THE FRANKLIN COUNTY HOUSE OF CORRECTION AND JAIL HAS ENACTED AS THERE POLICY

12.) THE PLAINTIFF DONALD RENKOWIC WAS AND IS BEING DENIED ACCESS TO THE COURTS BY THE FRANKLIN COUNTY HOUSE OF CORRECTION AND JAIL, AND BY THE STAFF MEMBERS OF THE FACILITY BY NOT HAVING OR ALLOWING THE PLAINTIFF LEGAL

MATERIALS TO ADDRESS THE COURTS FOR HIS CIVIL ACTIONS THAT ARE BEING DONE AND OR THE CIVIL ACTIONS THAT ARE PENDING WITHIN THE JUSTICE SYSTEM.

13.) THE DEFENDANTS HAVE BEEN DENYING THE PLAINTIFF ACCESS TO THE COURTS BY NOT ALLOWING THE PLAINTIFFS MAIL ADDRESSED TO THE HAMPSHIRE SUPERIOR COURT AND HIS ATTERNEY ALAN RUBIN , ALSO THE UNITED STATES DISTRICT COURT IN SPRINGFIELD, MASS. 01102 TO BE DELIVERED AND OR HAVE EMPEDED ITS TRANSMISSION BY NOT EXCEPTING HIS MAIL FOR DELIVERYWITHIN IN A 24 HOUR PERIOD.

14.) SINCE JULY 2004, THROUGH SEPTEMBER 2004 ,THE DEFENDANTS ARE DENYING THE PLAINTIFF TO MAIL OUT LEGAL CORRESPONDENCE OF

ANY KIND BECAUSE THEY FEEL HE IS NOT INDIGENT BY THERE STANDARDS, OR POLICIES THAT THEY HAVE ENACTED AT THIS FACILITY AND THEY HAVE STATED THAT INDIGENT INMATE MAIL IS TO BE SENT OUT ONCE A WEEK (THURSDAY NIGHTS ONLY).

NOW THE PLAINTIFF DONALD RENKOWIC HAS A FEDERAL CONSTITUTIONAL RIGHT UNDER 42 U.S.C. section 1983 AND THE PLAINTIFF DONALD RENKOWIC ALSO STATES THAT HE HAS A FUNDAMENTAL CONSTITUTIONAL RIGHT OF ACCESS TO THE COURTS PURSUANT TO FEDERAL AND STATE CASE LAWS SUCH AS ; BOUNDS Vs, SMITH 430 U.S. 817 (1977), LEWIS Vs,CASEV 518 U.S. 343 (1995), CEPULONIS Vs. FAIR 563 F.SUPP.659,660(D,MASS 1983), AFFIRMED IN RELEVANT PART BY 732 F.2d 1 (1st CIR. 1984), AND BY THE CODE OF MASSACHUSETTS REGULATIONS SUCH AS 103 C.M.R. 478.11 (STATES)(5)(a) THE INSTITUTION BY 103 C.M.R. 934.01 (COUNTY)(4); WRITTEN POLICY AND PROCEDURE SHALL PROVIDE FOR A PROGRAM DESIGNED TO ASSIST INMATES IN THE PREPARATION AND FILING OF LEGAL PAPERS.

15..) THE FRANKLIN COUNTY HOUSE OF CORRECTION AND JAIL HAS HIRED AN OUTSIDE ATTORNEY SEAN O'SULLIVAN TO HELP ASSIST INMATES WITH THERE CASES HOWEVER, ATTORNEY O'SULLIVAN CAN NOT AND WILL NOT HELP ASSIST INMATES IN ANY CIVIL

MATTERS AGAINST THE JAIL OR ANYONE ELSE DUE TO LEGAL CONCERNS AND HIS CONTRACT OBLIGATIONS WITH THE FRANKLIN COUNTY HOUSE OF CORRECTION AND JAIL, SHERIFF MACDONALD.

16,) THE PLAINTIFF DONALD RENKOWIC IS BEING DENIED A SANITARY AND SAFE ENVIRONMENT WHICH IS A BASIC HUMAN NEED THAT AN INSTITUTION MUST PROVIDE FOR ALL INMATES (PRISONERS).

THE PLAINTIFF DONALD RENKOWIC STATES THAT A SANITARY AN SAFE ENVIRONMENT IS A BASIC HUMAN NEED THAT AN INSTITUTION MUST PROVIDE FOR ALL INMATES SEE TOUSSAINT Vs. McMARTY 597 F.SUPP 1388, 1411 (N.D.CAL.1984) , THE DEFECTIVE PLUMBING VIOLATES THE EIGHTH ADMENDMENT, IN JACKSON Vs. DUCKSWORTH 955 F. 2d 21,22 (7th CIR 1992), CELLS FLOODED WITH SEWAGE AND FOUL WATER WAS A 'CLEAR VIOLATION OF THE EIGHTH ADMENDMENT THE PLUMBING HERE AT THE FRANKLIN COUNTY HOUSE OF CORRECTION AND JAIL , 160 ELM STREET , GREENFIELD ,MASS. 01301 ARE IN SUCH DISREPAIR AS TO DEPRIVE INMATES (PRISONERS) OF BASIC ELEMENTS OF HYGIENE AND SERIOUSLY THREATENS THIER PHYSICAL AND MENTAL WELL BEING. FUNCTIONING TIOLETS AND SHOWERS ARE NECESSITIES OF MODERN LIFE, PARTICULARLY WITHIN THE CONFINES OF A SELF

CONTAINED ENVIRONMENT SUCH AS A JAIL, SEE INMATES
OCCOQUAN Vs. BARRY, 717 F. SUPP.854, 866 -867 ALSO BAILA Vs.
BOARD OF CORRECTION, 656 F. SUPP 1108, 1118—1119 (D.
IDAHO 1987) PRISON OFFICIALS CANNOT ESCAPE THIER DUTIES
OR RESPONSIBILITIES OF MAINTAINING SANITATION BY BLAMING
THE INMATES (PRISONERS) EITHER FOR CAUSING UNSANITARY
CONDITIONS OF FAILING TO CLEAN THEM UP. PRISON OFFICIALS
CAN USE INMATES (PRISONERS) WORKERS WHO CONSENTUALLY
AGREE TO KEEP THE PRISON (JAIL,HOUSE OF CORRECTION)
CLEAN, BUT IT IS STILL THIER RESPONSIBILITY TO PROVIDE
ADEQUATE SUPPLIES TO MAINTAIN FIXTURES AND EQUIPMENT
AND ORGANIZE CLEANING ACTIVITIES, SEE HOPTOWIT Vs.
SPELLMAN, 753 F. 2d AT 784, JOHNSON Vs. PELKER F. 2d 136, 139 (7th
CIR 1989) COURTS HAVE ALSO REQUIRED PRISON OFFICIALS TO
PROVIDE WATER FOR WASHING CLEAN CLOTHING AND BEDDING,
AND TOILET ARTICLES SUCH AS; SOAP TOILET TISSUE, TOOTHBRUSH,
TOOTHPASTE, ON A JUST NEED OR AS NEEDED BASIS SEE CARVER Vs
BUNCH 946 F. 2d 451,452(6th CIR 1991)(DENIAL OF THOSE PERSONAL
ITEMS STATED CONSTITUTES AN EIGHTH ADMENDMENT CLAIM) ,
CHANDLER Vs. BAIRD, 926 F. 2d 1057, 1063 –1065(11th CIR 1991)
CONFINMENT WITHOUT TOILET PAPER, SOAP, AND TOOTHPASTE,
SUPPORTED AN EIGHTH ADMENDMENT CLAIM, MASLONE Vs

COLYER 710 F.2d 258,262 (6th CIR 1983) (DEPRIVATION OF TOILET
ARTICLES STATES A CLAIM) , KIMBOROUGH Vs. ONIEL, 523 F. 2d 1057,
1059 (7th CIR 1973)(DEPRIVATION OF SOAP AND TOILET PAPER ON A
NEEDED BASIS WAS UNCONSTITUTIONAL) DELIBERATE DENIAL OF
TOILET PAPER AND SOAP FOR ANY EXTENDED PERIOD WOULD
VIOLATE THE EIGHTH ADMENDMENT SEE CARVER Vs KNOX COUNTY,
TENN. 753 F. SUPP. AT 1370, 1389, DIVERS Vs DEPARTMENT OF
CORRECTIONS 921 F, 2d 191,194 (8thCIR 1990), HUDSON
Vs McMILLIAN 112 S.Ct. 995,1000 (1992), RHODES Vs. CHAPMAN 452 U.S.
337, 34 FAILURE TO PROVIDE SOAP, RAZERS, COMBS, TOOTHPASTE,
TOILET PAPER, ACCESS TO MIRROR, AND SANITARY NAPKINS
VIOLATED THE CONSTITUTION, SEE BIRD Vs. FIGEL 725 F, SUPP 406 (N.D.
IND.1986), DAWSON Vs. KENDRICK 527 F. SUPP AT 1288; HEITMAN Vs.
GABRIEL 524 F. SUPP 622 628 (W.O.M.O.1981), YOUNG Vs. QUINLAN 960
F.2d 357(3rd CIR 1992), LEWIS Vs. LANE 816 F.2d 1165 (7th CIR 1987),
HARDWICK Vs. AULT 447 F. SUPP 116 (M.D. Ga.1987) JACKSON Vs
DUCKSWORTH 995 F.2d 21 (7th CIR 1992), HELLING Vs McKINNEY 111 S.Ct.
2475 (1993), KAHANE Vs CARLSON 527 F. 2d 492 (2d CIR
1975).

17..) THE PLAINTIFF DONALD RENKOWIC HAS FILED SEVERAL
 GRIEVANCES CONCERNING THE MATTERS OF LAW LIBRARY,
 UNSANITARY LIVING CONDITIONS, AND OTHER GRIEVANCES ON

OTHER MATTERS INCLUDING SEVERAL REQUEST FORMS ON THE SAME MATTERS.

THEREFORE THESE CONDITIONS ARE BLANANTLY OBVIOUS AND THE FRANKLIN COUNTY HOUSE OF CORRECTION AND JAIL, SHERIFF FREDRICK MACDONALD, INCLUDING THE STAFF MEMBERS OF THE FACILITY HAVE BEEN NOTIFIED OF THESE CONDITIONS, IF THE FRANKLIN COUNTY HOUSE OF CORRECTION AND JAIL, SHERIFF MACDONALD, STAFF MEMBERS FAIL TO REMEDY THESE UNLAWFUL CONDITIONS THAT THEY KNOW ABOUT OR IF THEY OTHERWISE FAIL TO CARRY OUT THIER DUTIES OR RESPONSIBILITIES TO PROVIDE ADEQUATE CARE CITY OR COUNTY GOVERNMENT MAYBE HELD LIABLE ON A SIMILAR BASIS THE CONSTITUTION REQUIRES PRISON AND JAIL OFFICIALS TO PROVIDE REASONABLE SAFETY FOR PRISONERS. THEY MUST PROTECT THEM FROM ASSUALT BY OTHER INMATES AND FROM UNREASONABLE HAZARDOUS LIVING CONDITIONS SUCH AS HAVING SECONDARY FIRE EXITS, FIRE HOSES, EVACUATION SIGNS AND EXITS SIGNS, FIRE EXTINGUISHERS, SRINKLER SYSTEMS FOR INMATE CELLS AND IN HOUSING AREAS, AND SURVEILANCE CAMERAS IN HOUSING AREAS AND OTHER AREAS WHEN THERE IS MORE THEN 50 INMATES OR PRISONERS HOUSED IN ONE UNIT, EVEN IF PRISON OFFICIAL DONT KNOW ABOUT THE RISK TO A PARTICULAR PRISONER THEY CAN BE HELD LIABLE FOR

POLICIES OR CONDITIONS THAT ARE DANGEROUS TO ALL PRISONERS OR TO AN IDENTIFIABLE GROUP OF PRISONERS OR BY SYSTEMATIC DEFICIENCIES IN STAFFING FACILITIES OR PROCEDURES (THAT) MAKE SUFFERING INEVITABLE. STATUTES AND REGULATIONS OR EVEN INTERNAL RULES GOVERNING JAIL OR PRISON OPERATIONS MAY HELP ESTABLISH EXACTLY WHAT ORDINARY CARE REQUIRES A PARTICULAR PROCEDURE. THE FAILURE TO FOLLOW IT MAYBE CONSIDERED NEGLIGENCE

18.) WHEREFORE THE PLAINTIFF DEMANDS JUDGMENT AGAINST THE DEFENDANTS FOR DAMAGES AND SUCH OTHER RELIEF AS THIS COURT DEEMS JUST.

19.) THE PLAINTIFF DONALD RENKOWIC REQUESTS TRIAL BY JURY

20.) THE PLAINTIFF DEMANDS A TRIAL BY JURY.

DATE 9-28-04

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read 'D. Renkowic', written over a horizontal line.

DONALD RENKOWIC, PRO SE

160 ELM STREET

GREENFIELD, MASS. 01301

TO: ATTORNEY GENERAL OFFICE - Tom Rieley,
FRANKLIN COUNTY HOUSE OF CORRECTION AND JAIL,
SHERIFF FREDERICK MACDONALD, ET, AL.

I wish to inform all the above parties that I intend to start civil legal actions against them either by individually or in their official ~~capacity~~^{CAPACITY} for violations against me while I was incarcerated at the Franklin County House of Correction and Jail such violations consist of unsanitary living conditions, health care, medical treatment, grievance procedures, disciplinary procedures, the taking of court documents from my possession, personal property, and any other requirements that I am entitled to and those that are under or prescribed by the state and federal laws, statutes, also by the code of Massachusetts regulations.

by or THEREFORE: you may take this as my letter of presentment or letter of intent as prescribed under Massachusetts General Law Chapter 258, ET, SEQ.

Thank you for your attention to these matters and I await your immediate reply.

Truly yours.

DATE: 7-24-04

DONALD BENKOWIC PRO SE
160 Elm St.
GREENFIELD, MASS 01301



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108-1598

THOMAS F. REILLY
ATTORNEY GENERAL

(617) 727-2200
www.ago.state.ma.us

August 24, 2004

Frederick B. Macdonald, Sheriff
Franklin Sheriff's Department
160 Elm Street
Greenfield, Massachusetts 01301

Re: **Claim of:** Donald Renkowic
Presentment Letter Dated: July 24, 2004
Date Of Incident: August 23, 2004

Dear Sheriff Macdonald:

I am enclosing the presentment letter referenced above which we received in this Office on July 28, 2004.

Would you please investigate this claim and notice this Office of the results in accordance with the Attorney General's Presentment Procedures for Agencies of the Commonwealth. (June 30, 2001). Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Susan Gaeta".

Susan Gaeta
Presentment Coordinator
(617) 727-2200 x 3343

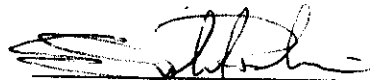
Enclosures

cc: Donald Renkowic



CERTIFICATE OF SERVICE

I Donald Renkowic, PRO SE, HEREBY CERTIFY THAT ON THIS
28 DAY OF September 2004, I HAVE SERVED THE FOREGOING
DOCUMENTS BY MAILING FIRST CLASS, POSTAGE PREPAID, A TRUE COPY
OF SAME TO THE DEFENDANTS, AND THEIR ATTORNEY, AT THE
FOLLOWING ADDRESSES ;



DONALD RENKOWIC, PRO SE
